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GIFFORD, KRASS, GROH, SPRINKLE, ANDERSON & CITKOWSKI, P.C.

PATENT, TRADEMARK AND COPYRIGHT PRACTICE

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FACSIMILE TRANSMISSION

DATE: March 17, 2004

TO: EXAMINER MCLOUGHLIN

FACSIMILE NO.: 703-872-9306

FROM: John G. Posa

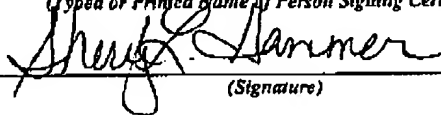
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RE: SN 09/677,424

MESSAGE:

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CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)			Docket No.
Applicant(s): Mankovitz			MRJ-10202/03
Serial No. 09/677,424	Filing Date Oct. 2, 2003	Examiner M. McLoughlin	Group Art Unit 2662
Invention: ELECTRONIC TELEVISION PROGRAM GUIDE DELIVERY SYSTEM USING TELEPHONE NETWORK IDLE TIME			
<p>I hereby certify that this <u>Response to Office Action</u> (Identify type of correspondence)</p> <p>is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <u>703/872-9306</u>)</p> <p>on <u>March 17, 2004</u> (Date)</p> <p style="text-align: right;"><u>Sheryl L. Hammer</u> (Typed or Printed Name of Person Signing Certificate)</p> <p style="text-align: right;"> (Signature)</p> <p style="text-align: center;">Note: Each paper must have its own certificate of mailing.</p>			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mankovitz

Serial No.: 09/677,424

Group No.: 2662

Filed: Oct. 2, 2003

Examiner: M. McLoughlin

For: ELECTRONIC TELEVISION PROGRAM GUIDE DELIVERY SYSTEM USING
TELEPHONE NETWORK IDLE TIMERESPONSE TO OFFICE ACTIONCommissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action mailed December 17, 2003, the Examiner's attention is directed to the following remarks.

The claims of this application are being resubmitted in unamended form on the grounds that the Examiner has either misread or misinterpreted Tsumura et al., U.S. Patent No. 5,353,337.

The instant invention includes only two independent claims, and both include the limitation of information being repetitively transmitted over a telecommunications network, regardless of whether the recipient's connection to the network is in an on-hook or off-hook condition. The Examiner claims that Tsumura et al. discloses such a limitation, but the undersigned cannot find language in the '337 patent to support this argument. More particularly, the Examiner states that

"center 10 ... includes database 12 storing compound data to continuously deliver music or image to the telephone exchange 20 regardless of the condition of the condition [sic] of switch 22 on the telephone line 40 in the telephone exchange."

However, reference is made to column 4, lines 47-61 of the '337 patent, which is reproduced herein below:

"In the sort of configuration outlined above, when the telephone receiver is lifted off the hook, the exchange device 22 is switched to the exchange switching system to enable voice communication and, when the telephone receiver is placed on hook, the exchange device 22 is switched, during periods when the telephone line 40 is idle, to one or other

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Serial No. 09/677,424

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of the center units to enable the idle time to be used for the transmission of broadcast signals from one or other of said center units 11, 11', 11'' by way of said telephone line 40 to the two aforementioned terminals 33a, 33b. Remote operating instructions can also be sent from said terminals 33a, 33b to turn the exchange unit 22 on and off and to select the required center unit (in other words, to change channels).

Thus, by Applicant's understanding, data transmission under Tsumura commences only when the receiver is in an on-hook condition, and not regardless of whether it is an on-hook or off-hook condition. Nor can Applicant find any disclosure whatsoever that information is sent repetitively, but rather, is sent when an on-hook condition is detected. Thus, the systems of Tsumura et al. and that of Applicant are entirely different, precluding anticipation and obviousness.

If the Examiner disagrees with this response, and contends that Tsumura does disclose the repetitive transmission of information regardless of whether a user's connection to the network is an on-hook or off-hook condition, Applicant respectfully requests that the Examiner point out exactly where this disclosure is contained in the '337 patent. Otherwise, this case should be allowed.

Respectfully submitted,

By: 

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Dated: March 17, 2004